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Established 1844

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September 11, 2014

VIA FEDERAL EXPRESS

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New York/Caribbean Superfund Branch
Office of Regional Counsel, EPA Region 2
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Pamela Tames, P.E.
Remedial Project Manager
Central New York Remediation Section
U.S. Environmental Protection Agency
290 Broadway, 20th Floor
New York, NY 10007-1866

**Re: Lower Ley Creek Subsite of the Onondaga Lake Superfund Site
Comments on Proposed Plan**

Dear Ms. Charney and Ms. Tames:

We are writing on behalf of four companies (Carrier Corporation, Cooper Crouse-Hinds LLC, Syracuse China Company, and Niagara Mohawk Power Company, d/b/a National Grid, collectively referred to as the "De Minimis Companies" to provide comment on the U.S. Environmental Protection Agency's ("EPA") Proposed Plan and supporting documents prepared for the Lower Ley Creek Subsite to the Onondaga Lake Superfund Site ("Lower Ley Creek Subsite" or "Subsite"). We request that EPA incorporate these comments in the development of the Record of Decision ("ROD") for the Subsite, or issue a Revised Proposed Plan. The De Minimis Companies would appreciate the opportunity to meet with EPA to answer any questions about our comments and to discuss related matters prior to issuance of the ROD.

Although the De Minimis Companies are submitting their comments within the timeframe established by EPA, it is inappropriate for EPA to close the comment period for the Proposed Plan for the Lower Ley Creek Subsite before the public release of the Proposed Plan for the Upper Ley Creek Subsite. The De Minimis Companies, along with General Motors ("GM"), Oberdorfer LLC, the Town of Salina, and Onondaga County, were issued notice of potential liability letters from EPA in October 2009 relating to the Lower Ley Creek Subsite. The reason for pursuing a CERCLA response at the Lower Ley Creek Subsite is the historic upstream release of PCBs by GM's Inland Fisher Guide ("IFG") plant into Upper Ley Creek. GM's IFG plant is the only facility located in the Ley Creek watershed known to have used PCBs directly in its manufacturing processes and has been identified as the sole source of PCBs

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identified in Ley Creek. During its operation from 1952 to 1994, GM used massive amounts of Pydraul™, a fire-resistant hydraulic oil with formulations containing Aroclors 1242 and 1248, in large scale die-casting operations and injection molding.

For decades, GM directly discharged wastewaters and PCBs without treatment through its storm sewer system to an open ditch/swale connected to Upper Ley Creek. By GM's own estimates, approximately 19,000 gallons of PCB-containing hydraulic oils were lost annually from its die-casting machines and injection molding equipment. Furthermore, also by GM's own admission, over 70% of its underground oil reclamation sumps and trenches leaked. Various studies performed at GM have documented its responsibility for:

- Years of continuous large-scale releases of PCBs to Ley Creek;
- High levels of PCB contamination in multiple sections of GM's storm sewers and wastewater treatment plant;
- Widespread PCB contamination in GM's on-site landfill, buildings, equipment, floors, trenches, sumps, drains, and waste storage areas;
- Concentrated PCB contamination in GM's open on-site lagoon and holding pond and their sediments (averaging 200-300 parts per million ("ppm"));
- Extensive PCB contamination in GM's drainage swale connected to Ley Creek (as high as 31,000 ppm);
- PCB contamination in an area adjacent to Niagara Mohawk property which was contaminated by PCB discharges (documented in historic air photographs) from GM's IFG plant; and
- Extensive PCB contamination of Ley Creek, the Old Ley Creek Channel, the Ley Creek Dredge Spoil Site, and other locations where dredged spoils were placed.

Additionally, analytical data generated from sampling in all segments of Ley Creek from GM's IFG plant to the creek's mouth at Onondaga Lake, including in the Old Ley Creek Channel and dredge spoils areas, shows that the levels and types of PCBs found at the Lower Ley Creek Subsite are connected to releases from GM's IFG plant. But for GM's releases of PCBs to Upper Ley Creek and its floodplains, there would be no investigation or remediation of downstream Lower Ley Creek and its environs.

It is only because of GM's bankruptcy that EPA made an arbitrary project distinction between Upper Ley Creek and Lower Ley Creek. EPA's definition of the Lower Ley Creek Subsite as beginning at the Route 11 Bridge and its subsequent decision to include the Old Ley Creek Channel in the Lower Ley Creek Subsite have no factual or technical basis and are related solely to the legal and financial considerations arising from the GM bankruptcy. Maintaining this arbitrary splitting of the Lower Ley Creek Subsite from the Upper Ley Creek Subsite has

caused, and, without change, will continue to result in, inefficient and potentially inconsistent project administration, decision-making and management. Moreover, substantial costs could be avoided if these sites were managed in a coordinated and unified way based on GM's IFG plant being the common source of the contaminants that are driving the perceived need to remediate all of these downstream areas.

Given the continuum of elevated levels of PCB and other contaminants such as chromium in sediments and floodplain soils extending from GM's former plant downstream through Upper Ley Creek and Lower Ley Creek, planning and implementing highly coordinated remedies at the two subsites should be an imperative of EPA. The extent and methods of the cleanup upstream of the Route 11 Bridge has direct bearing on the potential for recontamination and the appropriateness of the cleanup proposed for the Lower Ley Creek Subsite.

The Proposed Plan for the Upper Ley Creek Subsite clearly has the potential to influence the comments of the De Minimis Companies and others on the Proposed Plan for the Lower Ley Creek Subsite. There is no document available to the De Minimis Companies indicating that downstream remedies will not be adversely affected by continuing sources from the upstream contamination caused by GM. EPA's decision to close public comment on the Proposed Plan for the Lower Ley Creek Subsite before the Proposed Plan for the Upper Ley Creek Subsite is issued substantially limits meaningful technical comment. This management approach, which restricts the public from important available information, is unnecessary and inconsistent with EPA's own guidance on managing contaminated sediment site risks and the facts.

The backward sequencing of the public comment periods for the Lower Ley Creek Subsite and the Upper Ley Creek Subsite is particularly unnecessary because, as the Companies understand, the Upper Ley Creek Proposed Plan is drafted and being shared between EPA and NYSDEC and with the Onondaga Nation. Moreover, EPA has acknowledged on page 21 of the Proposed Plan that the Upper Ley Creek Subsite must be remediated before the Lower Ley Creek Subsite is remediated. To the extent that EPA is relying upon the Proposed Plan for the Upper Ley Creek Subsite in support of the Proposed Plan for the Lower Ley Creek Subsite, this fact should be in the administrative record for the Lower Ley Creek Subsite and available for review and comment. There is no reason for closing the public comment period for the Lower Ley Creek Proposed Plan before this relevant information is made available.

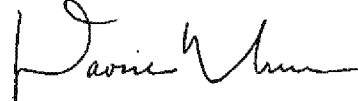
For these reasons, the De Minimis Companies previously asked for and continue to request that EPA be willing to hold open (or re-open) the public comment period for the Proposed Plan for the Lower Ley Creek Subsite until at least 30 days after the Proposed Plan for the Upper Ley Creek Subsite is made public. The De Minimis Companies further request that EPA: 1) disclose the amount of remaining funds expected to be available from the GM bankruptcy settlement for implementation of the Lower Ley Creek remedy, and 2) agree to meet

Lauren P. Charney, Esq.
Pamela Tames, P.E.
Page 4
September 11, 2014

with the De Minimis Companies as soon as feasible to continue a dialogue on important issues relating to the Lower Ley Creek Subsite (including the more detailed enclosed comments).

Very truly yours,

EASTMAN & SMITH LTD.

A handwritten signature in black ink, appearing to read "David W. Nunn", written in a cursive style.

David W. Nunn

DWN/ss
Enclosures
cc: Company Representatives